Circular R7d

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COLUMBIA UNIVERSITY LIBRARIES IN THE CITY OF NEW YORK
DOCUMENTS SERVICE CENTER

Mandatory Deposit of Copies or Phonorecords for the Library of Congress

(Under Section 407 of the Copyright Act)

APR 24 1986
U. S. DEPOSITORY COPY

MANDATORY DEPOSIT REQUIREMENTS

On January 1, 1978, all works published with a notice of copyright in the United States became subject to the mandatory deposit requirements of the United States Copyright Act (title 17, United States Code). These requirements are similar to the "legal deposit" or "depot legal" laws in effect in other countries.

In general, the mandatory deposit provision ensures that the Copyright Office is entitled to receive copies of every work published in the United States with notice of copyright. These deposits are for collections of the Library of Congress or for use in the national library programs.

HOW THE MANDATORY DEPOSIT REQUIREMENTS WORK

The basic requirement of the deposit provisions, found in section 407 of the copyright law, is that within 3 months after a work has been published with notice of copyright in the United States, the "owner of copyright or of the exclusive right of publication" in that work must deposit the required number of copies of the work in the Copyright Office.

WHEN THE REGISTER SENDS A DEMAND; PENALTIES FOR FAILURE TO DEPOSIT

The law envisions that deposit will be made voluntarily to satisfy this requirement. To enforce this legal obligation, however, or to ensure a more rapid deposit of a work the Library needs promptly, the Register of Copyrights may make a written demand for the required deposit at any time after publication. If the required deposit is not made within 3 months of the demand, the person or organization obligated to make the deposit is liable for a fine of not more than $250 for each work plus the retail price of the copies; if the refusal to comply is willful or repeated, an added fine of $2500 may be incurred.

WHEN THE DEPOSIT REQUIREMENT APPLIES TO FOREIGN WORKS

Although the deposit requirements are limited to works published in the United States, they do apply to a work that was first published in a foreign country **as soon as that work is published in the United States** through the distribution of copies or phonorecords that are either imported or are part of an American edition.

WHAT MUST BE DEPOSITED

In general, the deposit must consist of **two** complete copies or phonorecords of the best edition of the work.

If the work is a sound recording, the deposit must include **two** complete phonorecords of the best edition, **plus** any text or pictorial matter published with the phonorecord. Examples of the textual material include: record sleeves, album covers, and separate leaflets or booklets included in the sleeve or album.

If the work is a motion picture, the deposit consists of **one** complete copy of the best edition, **plus** a separate description of its contents such as a continuity, press book, or synopsis.

BEST EDITION OF A WORK

The definition of "best edition" in the law makes it clear that the Library of Congress is entitled to receive the copies or phonorecords of the edition that best suits its needs. Its choice may be made from any editions that have been published in the United States before the date of deposit.

When two or more editions of the same version of a work have been published before the date of deposit, the Library of Congress generally considers the one of the highest quality to be the best edition. If, on the date of deposit, a better edition existed but was not submitted, the Copyright Office

is entitled to request the better edition on behalf of the Library of Congress. The Library of Congress lists criteria to follow in judging quality, in its current "best edition" statement. When the criteria listed do not apply to a particular work, the Copyright Office will confer with appropriate officials of the Library of Congress to obtain a determination as to the best edition of that work.

For a detailed description of the "best edition" criteria, write to the following address for Circular R7b:

Publications Section, LM-455
Copyright Office
Library of Congress
Washington, D.C. 20559

EXEMPTIONS FROM THE DEPOSIT REQUIREMENT

Because many deposits are not suitable for addition to the Library of Congress collections or for use in national library programs, the Copyright Office has issued regulations that exempt certain categories of works entirely from the mandatory deposit requirements. These regulations also reduce the required number of copies or phonorecords from two to one for certain other categories. For further information about these regulations, see Part 202 of 37 CFR, Chapter II, or write to the Copyright Office.

Special Relief

Persons obligated to deposit any published work not exempt from deposit by the regulations may apply for Special Relief from the deposit requirements. Requests for Special Relief are most frequently made on the ground that the deposit requirement for a non-exempt work would impose an undue burden or cost on a copyright owner. In some individual cases it may not be necessary to require deposit of a particular work or to demand strict compliance with the general "two-copy," "complete," and "best edition" standards of the statute. The grant of Special Relief is discretionary with the Copyright Office and will depend on a careful balance of the acquisition policies of the Library of Congress, the examining requirements of the Copyright Office (if registration is sought), and the hardship to the copyright owner.

If copyright registration is sought, requests for Special Relief from deposit requirements should be made in writing to the Chief, Examining Division, Copyright Office, Library of Congress, Washington, D.C. 20559. If no registration is desired but a deposit will be made in satisfaction of section 407 of the copyright law, requests for Special Relief should be addressed to the Chief, Deposits and Acquisitions Division, Copyright Office, Library of Congress, Washington, D.C. 20559. Requests must set forth specific reasons why the Special Relief should be granted, and must be signed by or on behalf of the owner of copyright or of the exclusive right of publication in the work.

USE OF MANDATORY DEPOSIT TO SATISFY REGISTRATION REQUIREMENTS

Although deposit for the collections of the Library of Congress is mandatory, registration of a copyright claim is ordinarily voluntary. Registration is not a condition of copyright protection, but owners are allowed a broader range of remedies in infringement suits if registration is made. The deposit made to satisfy the section 407 mandatory deposit requirement for the Library of Congress can also be used to satisfy the deposit required for registration of a copyright claim under section 408 of the copyright law if the following conditions are met.

Ordinarily, the copies or phonorecords should be sent to the Copyright Office accompanied by an **application** for copyright registration and a **$10 nonreturnable filing fee** all together in the **same mailing package.** However, if, due to bulk or other considerations, it is not possible to send the application and fee together with the deposit copies, then the following conditions apply:

1. The copies or phonorecords must be accompanied by either an application for copyright registration, **or** a clear written request that they be held for connection with a separately forwarded application, and;
2. The written request must appear in a letter or similar document which accompanies the deposit. The request cannot appear on the wrapping, label, or container in which the deposit was mailed.
3. Unless a deposit account has been established, a copyright registration fee of $10 for each application must be submitted with the copies or phonorecords or with correspondence accompanying the deposit.

Copyright Office • Library of Congress • Washington, D.C. 20559

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